

Message Text

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ACTION EB-11

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FM AMEMBASSY LIMA

TO SECSTATE WASHDC PRIORITY 656

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EO 11652 N/A

TAGS: ETRN, PE

SUBJ: CIVAIR-BRANIFF/AEROPERU PROBLEM

REF: LIMA 4956

1. SUMMARY: BRANIFF OFFICIALS HAVE CONFIRMED TRANSPORT MINISTRY REPRIEVE FROM JUNE 20 DEADLINE AND MINISTRY HAS MOREOVER GRANTED PROVISIONAL APPROVAL TO TWO ADDITIONAL FREQUENCIES BRANIFF WISHES TO OPERATE AS OF JULY 1. HOWEVER, BRANIFF REGARDS AGREEMENT AS FRAGILE AND GOOD FOR PERHAPS NO MORE THAN TWO OR THREE WEEKS, DURING WHICH TIME IT EXPECTS DGTA TO CONTINUE TO PRESS FOR EARLY PAYMENT OF FIFTH FREEDOM SURCHARGE. IN MEANTIME, GENERAL REACTION ON PART GOP TO RECOMMEND SIXTH FREEDOM AND TARIFF CONDITIONS IN AEROPERU OPERATING PRMIT CONTINUES TO BE ONE OF INCOMPREHENSION AND RESENTMENT, DESPITE BEST EFFORTS BY BOTH EMBASSY AND BRANIFF TO EXPLAIN MATTER. COMMENT: BRANIFF BELIEVES, AND WE CONCUR, THAT THESE CONDITIONS SHOULD BE REMOVED. WHILE THIS ACTION WOULD NOT REDUCE GOP PRESSURE ON BRANIFF TO PAY COMPENSATION IN LIEU OF "REAL RECIPROCITY", IT WOULD GREATLY IMPROVE ATMOSPHERE AND IMPROVE CHANCES OF REACHING SOME FORM OF MUTUALLY ACCEPTABLE COMPROMISE. IF CONDITIONS NOT REMOVED, WE BELIEVE GOP CAPABLE OF ABRUPT AND ILL-ADVISED REACTION TO

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DETRIMENT

OF U.S. INTERESTS IN PERU. END SUMMARY

2. SOUTH, FLUCKER AND DEL SOLAR CALLED ON AMBASSADOR MORN-
ING JUNE 20 TO INFORM HIM OF BACKGROUND TO LAST MINUTE
REPRIEVE FROM JUNE 20 DEADLINE (REFTEL). THEY SAID THEY
HAD OBTAINED INTERVIEW WITH TRANSPORT MINISTER MENESES LATE
AFTERNOON JUNE 19. PROBLEMS WHICH WOULD HAVE BEEN CREATED
BY FORCING BRANIFF TO REVERT TO APRIL 1973 SCHEDULE HAD
PREVIOUSLY BEEN EXPLAINED TO HIM BY A DEPUTY (COL. SORIANO)
AND MENESES AGREED NOT ONLY TO WITHDRAW ULTIMATUM BUT GRANTED
BRANIFF PROVISIONAL APPROVAL FOR TWO NEW FREQUENCIES IT
WISHES TO OPERATE JULY 1.

3. HOWEVER, THEY SAID, NOTHING IN MENESES' ATTITUDE GAVE ANY
INDICATION THIS WAS MORE THAN TEMPORARY SOLUTION. MENESES
CLEARLY DID NOT UNDERSTAND CONSULATION PROCESS, STATING
THAT PERU'S DEMAND FOR "REAL RECIPROCITY" COMPENSATION IS LAW
OF THE LAND AND NOT SUBJECT TO COMPROMISE IN ANY NEGOTIA-
TIONS. EVERY OTHER AIRLINE, HE SAID, WAS PAYING 20 PERCENT
SURCHARGE, BUT NOT BRANIFF AND THIS DEMAND IS NONNEGOTIABLE.
HE COULD SEE SOME UTILITY IN TALKS FROM POINT OF VIEW OF
BILATERAL ITSELF, WHICH WAS OLD AND "MIGHT HAVE TO BE
CANCELLED". HE SAID HE WOULD ARRANGE MEETING WITH
AMBASSADOR IN NEXT DAY OR SO, BUT THAT MATTER OUGHT NOT
TO BE ALLOWED TO DRAG ON FOR MORE THAN FIFTEEN OR TWENTY
DAYS.

4. (BRANIFF OFFICIALS COMMENTED TO AMBASSADOR THAT PAY-
MENT OF 20 PERCENT SURCHARGE, QUITE ASIDE FROM INCONSISTENCY
WITH BILATERAL AND UNACCPETABLE PRECEDENT IT WOULD ESTA-
BLISH, WOULD REPRESENT IMPOSSIBLE ECONOMIC COST. BRANIFF
GROSSES BETWEEN \$12 AND \$13 MILLION PER YEAR IN PERU.
SOME 39 PERCENT OF ITS TRAFFIC IS FIRTH FREEDOM. SURCHARGE
WOULD THUS COST BRANIFF BETWEEN \$700,000 TO \$1,000,000 PER
ANNUM.)

5. WITH RESPECT AEROPERU OPEATING PERMIT, MENESES AND
HIS ADVISORS COMMENTED THAT TARIFF CONDITION CAUSED THEM
CONSIDERABLE PROBLEM. THEY DID NOT INTEND APPLY FOR IATA
MEMBERSHIP DURING THE FIRST YEAR OF AEROPERU OPEATIONS,
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ALTHOUGH THEY THOUGHT APPLICATION WOULD EVENTUALLY BE MADE.
THEY THEREFORE DID NOT WANT TO BE TIED DOWN IN ADJUSTING
ARE STRUCTURE. THEY WERE LESS CONCERNED BY SIXTH FREEDOM
CONDITIONS. SOUTH ADDED THAT, IN A GENRAL COMMENT, MENESES
HAD OBSERVED, "IF AEROPERU IS OUT OF THE U.S., BRANIFF IS
OUT OF HERE."

6. SOUTH ALSO INFORMED AMBASSADOR OF OUTCOME MEETING

MORNING OF JUNE 20 WITH SOTO OF AEROPERU. HE DESCRIBED SOTO AS "STILTED AND COLD" AND SAID IT WAS OBVIOUS HE IS FURIOUS WITH BRANIFF, WHICH HE HOLDS RESPONSIBLE FOR INCLUSION OF THE TWO CONDITIONS. SOUTH SAID HE MADE CAREFUL EXPLANATION OF REASONS FOR CONDITIONS (EMBASSY OFFICER HAD MADE SIMILAR EXPLANATION TO SOTO THE DAY BEFORE). SOTO, HOWEVER, WAS CATEGORICAL; HE DID NOT WANT EXPLANATIONS, HE SAID, BUT RATHER WANTED THE TWO CONDITIONS REMOVED FROM THE PERMIT. ALTHOUGH SOUTH EMPHASIZED THAT BRANIFF HAD SOUGHT TO BE HELPFUL TO AEROPERU IN OBTAINING ITS PERMIT, SOTO APPEARED UNCONVINCED.

7. AT NOON JUNE 20, AMBASSADOR CALLED ON FOREIGN MINISTER. DE LA FLOR CLEARLY DID NOT THOROUGHLY UNDERSTAND CONSULTATION MECHANISM AND WAS NOT CONVINCED THAT USG HAD NOT DISCRIMINATED AGAINST AEROPRU, ALTHOUGH HIS ATTITUDE BECAME MORE UNDERSTANDING AS AMBASSADOR EXPLAINED BACKGROUND OF TWO CONDITIONS. DE LA FLOR ASKED WHY CONDITIONS WERE INCLUDED IN AEROPERU'S PERMIT, BUT NOT IN APSA'S, NOTING THAT BRANIFF'S TRAFFIC HAD RISEN SHARPLY WITH APSA'S DEMISE. MINISTER (AND MARCHAND, WHO WAS PRESENT) SAID "SIXTH FREEDOM" IS NEW IDEA AND THAT SUCH TRAFFIC REGARDED AS "FIFTH FREEDOM" UNDER CHICAGO CONVENTION. THEY WANTED TO KNOW WHAT OTHER COUNTRIES USG HAD APPLIED THIS CONDITION. THEY ALSO SAID THAT TARIFF CONDITION APPEARED TO IMPLY THAT BRANIFF COULD CUT RATES BUT NOT AEROPERU. (AMBASSADOR TOLD MINISTER THAT BRANIFF BELIEVED THE TWO CONDITIONS SHOULD BE REMOVED AND THAT EMBASSY AGREED WITH THIS POSITION. WE HAD RECOMMENDED AND WOULD CONTINUE TO RECOMMEND TO WASHINGTON ACCORDINTLY.) FINALLY MINISTER EXPRESSED ANNOYANCE THAT BRANIFF HAD INVOLVED USG ALTHOUGH AEROPERU HAD NOT INVOLVED GOP IN LIMITED OFFICIAL USE

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EFFORTS TO RESOLVE ITS PROBLEMS. AMBASSADOR POINTED OUT THAT, FACED WITH DGTA DEMAND THAT CONTRADICTED BILATERAL AGREEMENT, USG INVOLVEMENT WAS LEGITIMATE AND NECESSARY. ALTHOUGH MINISTER'S ATTITUDE IMPROVED AS CONVERSATIONS PROGRESSED, HE DID NOT DROP BASIC REQUEST THAT CONDITIONS SHOULD BE REMOVED. HE DID SAY THAT OUR REQUESTS FOR CONSULTATION HAD BEEN REFERRED TO TRANSPORT MINISTRY AND THAT WE COULD EXPECT RESPONSE SHORTLY.

8. COMMENT: ONE ELEMENT THAT EMERGES CLEARLY FROM FOREGOING IS THAT GOP ATTITUDE TOWARD BRANIFF (BASICALLY ONE OF SUSPICION AND RESENTMENT) HAS SOURED CONSIDERABLY AS RESULT EVENTS OF PAST FEW DAYS. SOUTH'S PROTESTATIONS THAT BRANIFF HAD CONSISTENTLY SOUGHT TO BE HELPFUL TO AEROPERU IN SECURING PROMPT APPROVAL OF ITS PERMIT ARE NOT BELIEVED,

AND BRANIFF SEEMS TO BE REGARDED AS SOURCE AEROPERU PROBLEMS.
WE CONTINUE BELIEVE WITH BRANIFF THAT, IF ATMOSPHERE IS TO
BE IMPROVED AND OUR CIVIAL AVIATION INTERESTS HERE PROTECTED,
FIRST STEP SHOULD BE WITHDRAWAL OF TWO CONDITIONS TO WHICH
GOP OBJECTS. WE STRONGLY RECOMMEND THAT DEPARTMENT LEND ITS
GOOD OFFICES TO THIS END. WE FURTHER RECOMMEND THAT IF GOP
RESPONDS FAVORABLY TO OUR SUGGESTION, CONSULTATIONS SHOULD TAKE PLACE
WITHOUT DELAY, CERTAINLY NO LATER THAN MID-JULY. UNLESS
THESE STEPS ARE TAKEN, WE BELIEVE THAT GOP IS QUITE
CAPABLE OF ILL-CONSIDERED OVER-REACTION TO CONSEQUENT DETRI-
MENT TO BRANIFF AND POSSIBLY TO OTHER IMPORTANT U.S.
ECONOMIC INTERESTS IN PERU.
DEAN

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